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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,082	06/15/2001	Alan P. Cavallerano	PHA 23,534A	1510

7590 07/08/2002

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EXAMINER

SAJOUS, WESNER

ART UNIT PAPER NUMBER

2672

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,082

Applicant(s)

CAVALLERANO ET AL.

Examiner

Wesner Sajous

Art Unit

2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 26 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,8-10,13,19,20,22,24,25 and 27 is/are rejected.
- 7) ☒ Claim(s) 3,5-7,11,12,14-18 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Double Patenting***

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefore " (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

I. Claims 19-20, 25 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-2, and 3, respectively, of prior U.S. Patent No. 6320623. This is a double patenting rejection.

Although the claims are not verbatim identical, there is no difference in scope between them.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4, 8-10, 13, 22, 24 and 27 are rejected under 35 U.S.C. 102 (b) as being anticipated by, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Strubbe (Patent No. 5,432,561).

Considering claim 1, Strubbe, fig. 2) discloses a device (7) for receiving a video and/or audio signal comprises a plurality of different programs (*e.g., as in RF signal broadcasting programs supplied in connection to a cable system*), comprising:

An input (21) which receives the video and/or audio signal; a user interface (75) which receives a user input pertaining to an event; a detector (60) which analyzes the video and/or audio signal of at least one program to detect the event (*i.e., message*) in the program; a selector for automatically, upon detection of the event, providing to a display (45) the program containing the event. See columns 2-4, line 7 through line 30. Hence, based on the above characterization and teachings suggested by Strubbe, the ordinary skill in the art at the time of the invention would have been prompted to modify

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Strubbe wherein an event of at least one program is detected and automatically provided to a display with the program, in order to allow a viewer to easily activate and monitor the functions and programming of a television receiver without manual interaction.

Re claim 2, Strubbe further discloses a PIP device (30) which automatically displays in a PIP (50) the program having the detected event.

Method claims 8 and 9 recite features substantially the same as device claim 1, and is similarly rejected.

The invention of claim 13, substantially recites the underlying process steps of the elements of method claim 8. As the various elements of claim 8 have been shown to be obvious in view of the teachings of Strubbe, it is readily apparent that the method disclosed by the applied prior art performs the recited underlying functions. As such the limitations recited in claim 13 is rejected for similar reasons given above for claim 8. For device 70 include a microprocessor which is known in the art to incorporate a computer-readable medium such as a RAM or ROM.

As per claims 22/4, 10, Strubbe discloses the first receiving step (21); the decoding step (10); the second receiving step (75); the detecting step (60); and the providing step (30), wherein the detected text is a message indicator which could have been from a text recognition incorporated in device 60.

The invention of claim 24, although slightly different it recites features equivalent to claim 13, and is rejected by the same rationale as claim 13.

The invention of claim 27, substantially recites the underlying process steps of the elements of claim 22. As the various elements of claim 22 have been shown to be obvious in view of the teachings of Strubbe, it is readily apparent that the method disclosed by the applied prior art performs the recited underlying functions. As such the limitations recited in claim 27 are rejected for similar reasons given above for claim 22. For device 70 include a microprocessor which is known in the art to incorporate a computer-readable medium such as a RAM or ROM.

#### ***Allowable Subject Matter***

1. Claims 3, 5-7, 11-12, 14-18, 21, 23, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, because the prior art of record fails to suggest a method and apparatus for detecting audio and video events from at least one program and using a speech recognition device, a text recognition device, a shape detector device analyzing MPEG-4 video information in the form of DCT coefficient patterns.

#### ***Conclusion***

The prior art relevant and pertinent to Applicants invention are as recited in the PTO-892 form.

**Any response to this action should be mailed to :  
Box**

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Commissioner of Patents and Trademarks  
Washington, DC 20231

**or faxed to:**

(703) 872-9314, (for Technology Center 2600 only)

**Or:**

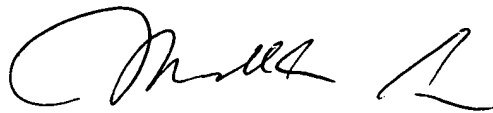
(703) 308-5399 (for informal or draft communications, please label "PROPOSED"  
or "DRAFT")

Hand-held delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA , 6th floor (receptionist).

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Wesner Sajous whose telephone number is (703) 308-  
5857. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Mark Razavi, can be reached at (703) 305-4713. The fax phone number for  
this group is (703) 308-6606.

*Wesner Sajous - WOS*  
*Patent Examiner, art unit 26772*



**June 27, 2002**

**MATTHEW LUU**  
**PRIMARY EXAMINER**